

The opinion in support of the decision being entered today was *not* written
for publication and is *not* binding precedent of the Board

Filed by: Trial Section Merits Panel
Mail Stop INTERFERENCE
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
Tel: 571-272-4683 Fax: 571-273-0042

Entered: 8 May 2007

Paper No. 74

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JAY K. BASS, JOHN F. McENTEE,
TIM J. LAZARUK, MARYAM MOBED-MIREMADI,
and BRENT T. TOLOSKO
Junior Party
(Patent 6,790.620)¹

v.

MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL
GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS,
MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA
Senior Party
(Application 11/224,052)²

Patent Interference No. 105,424

Before LEE, MEDLEY and MOORE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

¹ Based on Application 10/035,787, filed December 24, 2001. The real party in interest is Agilent Technologies, Inc.

² Filed September 13, 2005. Accorded the benefit of Application 10/722,032, filed November 25, 2003, Application 09/716,507, filed November 20, 2000, Application 09/244,568, filed February 4, 1999, and Application 08/634,053, filed April 17, 1996. The real party in interest is Affymetric, Inc.

Interference No. 105,424
Bass v. Goldberg

Judgment - Merits -- Bd. R. 127

In a decision on motions dated May 7, 2007, the Board has determined that all of party Goldberg's claims corresponding to the count, i.e., application claims 1-3, are unpatentable under 35 U.S.C. § 112, first paragraph, for lack of written description. Consequently, Goldberg is without standing to proceed further in this interference. It is now time appropriate to enter judgment against party Goldberg. It is

ORDERED that judgment as to the subject matter of the count is herein entered against the senior party MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL, GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS, MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA;

FURTHER ORDERED that senior party MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL, GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS, MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA is not entitled to a patent containing its application claims 1-3;

Interference No. 105,424
Bass v. Goldberg

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

FURTHER ORDERED that a copy of this judgment be placed in the respective involved application or patent of the parties.

<u>/Jameson Lee/</u>)	
JAMESON LEE)	
Administrative Patent Judge)	
)	
<u>/Sally C. Medley/</u>)	BOARD OF PATENT
SALLY C. MEDLEY)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
<u>/James T. Moore/</u>)	
JAMES T. MOORE)	
Administrative Patent Judge)	

Interference No. 105,424
Bass v. Goldberg

Sent by Electronic Transmission and Federal Express:

Attorney for Bass:

Steven.Kelber@jagtiani.com
Steven B. Kelber, Esq.
Jagtiani & Gutttag
10363-A Democracy Lane
Fairfax, Virginia 22030

Attorney for Goldberg:

oashe@ashepc.com
Oliver R. Ashe, Jr., Esq.
11440 Isaac Newton Sq. North
Suite 210
Reston, VA 20190

phil_mcgarrigle@affymetrix.com
Philip L. McGarrigle
Affymetrix, Inc.
3420 Central Expressway
Santa Clara, California 95051

Townes, Yolunda

From: Townes, Yolunda on behalf of Interference Trial Section
Sent: Tuesday, May 08, 2007 11:32 AM
To: 'steven.kelber@jagtiani.com'; 'oashe@ashepc.com'; 'phil_mcgarrigle@affymetrix.com'
Subject: Interference #105424_074 (JL) - Judgment-Merits-Bd.R. 127
Attachments: jd105424_074.pdf

Judgment – Merits – Bd.R. 127

Yolunda R. Townes
Paralegal Specialist
Interference Trial Section
571-272-4683